

**ALASKA STATE LEGISLATURE**  
**SENATE RESOURCES STANDING COMMITTEE**

January 30, 2008

3:35 p.m.

**MEMBERS PRESENT**

Senator Charlie Huggins, Chair  
Senator Bert Stedman, Vice Chair  
Senator Lyda Green  
Senator Lesil McGuire  
Senator Gary Stevens  
Senator Bill Wielechowski  
Senator Thomas Wagoner (via teleconference)

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Senator Joe Thomas

**COMMITTEE CALENDAR**

SENATE CONCURRENT RESOLUTION NO. 13

Urging the governor to direct the attorney general to file an amicus curiae brief with the United States Supreme Court in the case of Parker v. District of Columbia, supporting the individual right to keep and bear arms under the Second Amendment to the United States Constitution.

MOVED CSSCR 13(RES) OUT OF COMMITTEE

Presentation: Gasline Update

**PREVIOUS COMMITTEE ACTION**

BILL: SCR 13

SHORT TITLE: AMICUS BRIEF REGARDING RIGHT TO BEAR ARMS

SPONSOR(s): SENATOR(s) GREEN

01/16/08	(S)	READ THE FIRST TIME - REFERRALS
01/19/08	(S)	RES REFERRAL ADDED
01/30/08	(S)	RES AT 3:30 PM BUTROVICH 205

**WITNESS REGISTER**

EDDIE GRASSER, Staff  
to Senate and House Majority  
Alaska State Legislature  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Presented SCR 13 on behalf of Senator Green, sponsor.

PATRICK GALVIN, Commissioner  
Department of Revenue  
PO Box 110400  
Juneau, AK 99811-0400

**POSITION STATEMENT:** Presented update on the gas pipeline and the Alaska Gasline Inducement Act (AGIA).

TOM IRWIN, Commissioner  
Department of Natural Resources  
400 Willoughby Avenue  
Juneau, AK 99801-1724

**POSITION STATEMENT:** Presented update on the gas pipeline and AGIA.

#### **ACTION NARRATIVE**

**CHAIR CHARLIE HUGGINS** called the Senate Resources Standing Committee meeting to order at [3:35:44 PM](#). Present at the call to order were Senators Stedman, Green, McGuire, Stevens, Wielechowski, and Chair Huggins. Senator Wagoner (via teleconference) joined the meeting shortly thereafter. Also in attendance was Senator Thomas.

#### **SCR 13-AMICUS BRIEF REGARDING RIGHT TO BEAR ARMS**

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CHAIR HUGGINS announced SCR 13 to be up for consideration. In committee packets was a proposed committee substitute (CS), Version E, labeled 25-LS1327\E, Luckhaupt, 1/24/08.

EDDIE GRASSER, Staff to Senate and House Majority, Alaska State Legislature, presented the resolution on behalf of Senator Green, sponsor. He explained that it requests the governor to file an amicus brief on behalf of the State of Alaska and its citizens to help protect Second Amendment rights in the case known as District of Columbia v. Heller, which came out of the Fifth District Court, District of Columbia (D.C.).

CHAIR HUGGINS asked whether this is just joining with and supporting the right to bear arms.

MR. GRASSER said it also came to their attention that the governor is acting on this and has given direction to the attorney general. They're in negotiations with the State of Texas, which is gathering signatures from several states to file the amicus brief. To his understanding, the State of Alaska will sign that.

SENATOR GREEN referred members to the written sponsor statement, saying the supreme court agreed last November to hear the case, oral arguments are in early March, and the ruling will be in June. Thus this resolution should move quickly.

SENATOR STEVENS requested background on the Heller case.

MR. GRASSER replied it was brought by citizens of Washington, D.C., who asserted their Second Amendment rights were being infringed upon by a city ordinance that bans owning handguns. The first part argues that the Second Amendment is an individual right being abrogated by the ordinance. The second part relates to their ability to initiate their right to life and self-defense with respect to this ban. He referred members to the packet, saying in 1994 Alaskan voters overwhelmingly approved an amendment to the Alaska constitution which clarified that the right to keep and bear arms is an individual right.

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SENATOR STEVENS moved to adopt the proposed CS for SCR 13, Version E, labeled 25-LS1327\E, Luckhaupt, 1/24/08. There being no objection, Version E was before the committee.

CHAIR HUGGINS asked whether anyone else wished to testify; there was no response.

SENATOR GREEN moved to report CSSCR 13, Version E, from committee with individual recommendations. There being no objection, CSSCR 13(RES) was reported from the Senate Resources Standing Committee.

The committee took an at-ease from [3:41:29 PM](#) to [3:43:24 PM](#).

**Presentation: Gasline Update**

CHAIR HUGGINS invited Commissioner Galvin of the Department of Revenue (DOR) and Commissioner Irwin of the Department of

Natural Resources (DNR) to present an update on the gas pipeline. He noted a letter in packets, dated today, states the desire to continue an accelerated education of the legislature, working in conjunction with the administration on the issue of a gas tax regime. Equally important is that it be sooner rather than later between now and potentially 2009, when that regime will be set in statute. He emphasized being proactive and cooperative in sharing information.

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PATRICK GALVIN, Commissioner, Department of Revenue, began with background on the Alaska Gasline Inducement Act (AGIA), showing a PowerPoint slide presentation titled "Gasline Update and Overview"; a hardcopy version was provided. He noted several slides were shown a year ago when AGIA was presented to the legislature. He showed a slide labeled "AGIA Principles" that had the following points:

- Get project built, quickly
- Open North Slope gas basin
- Open and competitive process
- Low tariffs
- Gas for Alaska
- Jobs for Alaska
- Reduce uncertainties for Producers

COMMISSIONER GALVIN elaborated, saying the intent is to acquire information and move forward in the permitting and development process. Low tariffs will result in higher net backs, providing better value for the producers/leaseholders and a more attractive project. The availability of low-priced gas for Alaskans relates to having the lowest transportation costs. And to move the project to fruition, uncertainties need to be reduced so the producers have an opportunity to commit gas to the pipeline. The administration believes removing those uncertainties is the best way for the state to drive this forward and have a project in Alaska's interests.

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COMMISSIONER GALVIN told members AGIA is a commercial vehicle that promotes a competitive playing field. It gives an open opportunity for different pipeline proponents to come forward with proposals. It will result in a pipeline on Alaska's terms with respect to open access, an open North Slope basin, and low tariffs. The state's decision-making process as to which project to support and so forth will be transparent, as will the

inducements - the amount of value the state will put into that process. Thus the public can understand what is happening.

COMMISSIONER GALVIN noted AGIA uses competitive bidding rather than private negotiation. He highlighted the competition inherent in setting a deadline and telling bidders to bring their best proposal forward, with the expectation that they'll bring forward a proposal that meets Alaska's interests. To resolve uncertainties and move the project ahead, valuable inducements are included in the application process.

COMMISSIONER GALVIN surmised without those inducements, there wouldn't be competition and the opportunity for folks to come into the game. It comes back to being able to say this pipeline serves Alaska's long-term interests, creating an open, competitive North Slope basin so explorers that find gas will be able to get it to market on commercially reasonable terms. This is in contrast to saying Alaska wants any pipeline at any cost.

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COMMISSIONER GALVIN said the "must haves" in AGIA focus on aspects vital to the state: 1) moving the pipeline forward quickly; 2) getting through the development; 3) having an open-access pipeline to create a competitive North Slope oil and gas industry; 4) having jobs and careers not only in developing the pipeline, but also in the exploration and development of oil and gas that will take place with an open-access pipeline on the North Slope; and 5) ultimately having gas for Alaskans.

COMMISSIONER GALVIN continued with the slides, highlighting open access and the question of what the tariff will be. As discussed last year, there are debt-equity ratios and the concept of having the state's contribution reduce the tariff. He also mentioned providing the opportunity for creative problem solving related to cost overruns, noting other competitive aspects will create a pipeline that attracts the commitments of gas initially and also will attract exploration and development.

COMMISSIONER GALVIN addressed the process, saying the bids are submitted; those are made public and the public comments on them; and then they're evaluated, with that evaluation becoming public as well. Ultimately, the decision of the commissioners as to whether issuing a license is in the best interest of the state is fully transparent; thus the public can understand the applications, the evaluation, and the finding and justification for the decision. If the commissioners intend to issue a

license, it comes back to the legislature for final approval; the legislature has 60 days to make that decision.

COMMISSIONER GALVIN said the AGIA inducements are up front, quantifiable, and capped. The \$500 million matching contribution compares favorably with the amount of value discussed in the previous negotiations with the producers as to how much additional value the state would have to put in to try to secure a sense of forward movement. The AGIA inducement package doesn't have risks associated with the state taking on capacity and marketing requirements or other risks that are unquantifiable and otherwise hidden from public evaluation.

COMMISSIONER GALVIN explained that right now they're evaluating the TransCanada application. There will be a 60-day comment period. With AGIA, there is a flexible process because the administration isn't certain how many applications will be received. If there are several, criteria will be used to grade them against each other; if there is only one, it still must maximize the benefits to the people of Alaska and merit the award of a license. That evaluation is happening right now. Ultimately, there will be legislative review.

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COMMISSIONER GALVIN noted November 30 was the application deadline. Five applications were received. He showed a slide on this, with the following points:

- AEnergia
  - 4 Bcfd pipeline
- Alaska Gasline Port Authority
  - LNG Project (2.7 Bcfd)
- Alaska Natural Gas Development Authority
  - Spur Line to Southcentral Alaska
- Little Susitna Construction Company
  - LNG Project (4 Bcfd) with gas going to China
- TransCanada
  - 4 Bcfd pipeline to Alberta

COMMISSIONER GALVIN elaborated. He described AEnergia as a small outfit that proposed an overland pipeline to the Canadian border; a catalyst to generate partners with North Slope producers and the state to move the pipeline ahead, it would rely on someone else to do the pipeline beyond the border. The Alaska Gasline Port Authority ("Port Authority") proposed a liquefied natural gas (LNG) project; a variety of pipe sizes were included, but ultimately it would be a 2.7 billion cubic

feet a day (Bcfd) LNG project out of Valdez. The Alaska Natural Gas Development Authority (ANGDA) proposed a spur line to Southcentral Alaska connecting to an overland route to Canada - he mentioned Glennallen or Delta - or, if there is an LNG project, connecting at Glennallen and bringing it into the Southcentral region.

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CHAIR HUGGINS asked how ANGDA is funded and whether it's the Alaskan government applying to the Alaskan government.

COMMISSIONER GALVIN replied it was a citizen initiative. There is a board appointed by the governor. It is funded by the state; DOR carries its budget and passes it through. So ANGDA is a state entity. Turning to Little Susitna Construction Company, he said this Alaskan outfit teamed up with the Chinese Sinopec and some of its subsidiaries, proposing a large-capacity LNG project. The bulk of the gas would already be assigned and sold to Sinopec. It would be purchased at the wellhead and owned by Sinopec as it went through the line and to China.

COMMISSIONER GALVIN noted TransCanada also submitted an overland route, a 4.5 Bcfd pipeline to Alberta. Its application says if difficulties are encountered with Canadian permitting or getting sufficient capacity commitments for that size line, it would commit to delivering gas to Valdez through a pipeline if a customer wants such a project; there was no technical engineering information provided about the latter.

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COMMISSIONER GALVIN turned to the timeline since November 30, showing a slide with the following points:

December 11-18: Letters to each applicant requesting clarifications on their application

January 4: Completeness Decisions Made  
- TransCanada is determined complete

January 10: Request for Reconsideration submitted by the Port Authority

January 30: Request for Reconsideration Denied  
- Commitment to evaluate LNG project options as part of the AGIA evaluation process

COMMISSIONER GALVIN explained that under AGIA, the applications remained confidential throughout the process of clarifying information. On January 4 the completeness determinations were released, and TransCanada was the one found complete. Although the Port Authority's request for reconsideration was looked at closely, just today a decision was made to deny it. He added that there is a public commitment to evaluate LNG as an option in comparison to the TransCanada application.

4:00:47 PM

CHAIR HUGGINS asked if this keeps the door open for the Port Authority.

COMMISSIONER GALVIN answered he believes that is an accurate depiction. There is an obligation to Alaskans to ensure if a licensed project goes forward, there isn't a better alternative out there. Thus the commitment is to pull together the LNG options to see whether LNG is a better way to go. If that is the case and a license to TransCanada isn't recommended, then there needs to be another step to evaluate how to move forward with an LNG project; he surmised at that point the Port Authority would still be an alternative.

COMMISSIONER GALVIN, in response to Senator Wielechowski, explained that it would be different from either the Sinopec or Port Authority proposal. The evaluation team has a lot of expertise on LNG and engineering of pipeline projects. Different potential sizes and options can be built in. As envisioned, at least a couple of different options would be looked at to find the best potential LNG project in comparison to the TransCanada project, not isolated to just what was submitted by either Sinopec or the Port Authority.

SENATOR WIELECHOWSKI asked: If it is determined that LNG is a better option, what happens then?

COMMISSIONER GALVIN surmised in that case it would be incumbent on the administration to identify a way to move forward with LNG. He also surmised AGIA would allow putting out another request for applications (RFA) specific to LNG. However, the actual path hadn't been identified yet.

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CHAIR HUGGINS expressed concern. First, something had been called nonconforming and off the table, and now the administration will compare courses of action including

TransCanada. He surmised flexibility is being sought in AGIA that doesn't exist.

COMMISSIONER GALVIN replied that the administration isn't suggesting there's flexibility in AGIA. Rather, a possible license for TransCanada must be evaluated against LNG - not the Port Authority or Sinopec or another specific applicant - as a separate alternative with regard to economics and likelihood of success. Otherwise, the administration would have to come before the legislature without having looked at the LNG alternatives because none of the applicants had complied.

CHAIR HUGGINS alluded to the fact that this slide says "Commitment to evaluate LNG project options as part of the AGIA evaluation process" right under January 30 where it says "Request for Reconsideration Denied." He expressed concern about what this implies.

COMMISSIONER GALVIN replied that the aforementioned placement was because the commitment was made today, but it isn't tied to the Port Authority at all. He emphasized that with AGIA, everything is public. The Port Authority application is available on the Internet. The evaluation will have to be presented. It will be separate from the Port Authority.

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CHAIR HUGGINS asked to whom the commitment has been made, as noted on the slide.

COMMISSIONER GALVIN indicated it is to Alaskans from the administration.

CHAIR HUGGINS said that made him feel better, since the slide gives a different impression.

COMMISSIONER GALVIN reiterated that the evaluation would be the TransCanada application versus LNG. For the former, it must be determined that the application sufficiently maximizes the state's interests. That is being done in comparison with LNG. There likely will be multiple scenarios to ensure they've captured the gamut of options. It will become part of the public record. They won't be looking at whether LNG maximizes Alaska's interests. Rather, the issue will be whether TransCanada sufficiently does so. If the answer is no, AGIA says the commissioners can decide that no project deserves an application; in that case, there will be an option to go forward with another RFA or to seek another course of action.

COMMISSIONER GALVIN acknowledged it raises a question. He said a lot will be learned about LNG between now and then. The team of experts will provide the administration and Alaskans with their take on this issue, which has faced the state for a couple of decades. One purpose of AGIA was to have the ultimate evaluation of which course of action to take at this point. Much more will be known later about the level of interest and the best course of action.

SENATOR WIELECHOWSKI said he personally appreciates that evaluation, since many of his constituents have said they want an LNG line or an all-Alaska line. If nothing else, it's good for the public trust to look at that. There is a constitutional obligation to get the maximum value for the resources. He asked: If LNG proves to be of maximum value, is there any room under TransCanada's application to go forward with LNG?

COMMISSIONER GALVIN responded that they have to take TransCanada's application as presented. If LNG is identified as the preferred alternative, they have to be fair to all participants and to the process. In response to Chair Huggins, he indicated the evaluation would look at the benefits of projects that involve Canada in general, beyond the question of LNG versus TransCanada.

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CHAIR HUGGINS asked under what provision the request for reconsideration and the reconsideration had occurred. He gave his understanding that this element doesn't exist in AGIA.

COMMISSIONER GALVIN agreed, indicating the time lag between the request and the decision was from working with the Department of Law (DOL) on that issue. The conclusion from DOL was that the agency heads have an inherent ability to reconsider any decision they make, regardless of whether it is in statute. Many statutes don't mention reconsideration. So although AGIA precluded the right to appeal the decision outside of the administrative process into the judicial process, the right to a reconsideration wasn't precluded.

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CHAIR HUGGINS again referred to the wording on the slide, requesting confirmation that there wasn't any special communications to the Port Authority about how the state is going forward with that course of action.

COMMISSIONER GALVIN said no. The letter to the Port Authority is publicly available on the website, to his belief. He said the timing was such that the clarification on the treatment of LNG was made both to the Port Authority and - via a letter dated today from the governor, also on the website - to former Governor Hickel and the background group that had asked the same question. He reiterated that it was juxtaposed on the slide.

[4:14:44 PM](#)

COMMISSIONER GALVIN showed a slide labeled "What is Next?" that had the following points:

February 18-28: Planned Townhall meeting throughout Alaska

March 6: Comment deadline

Spring 2008

- Complete the Evaluation and Issue Finding
- If Intending to Award License, then provide notice to the legislature to start 60-day approval period

COMMISSIONER GALVIN clarified that the townhall-style meetings aren't being done with TransCanada; they're being done by the state, as evaluators of the application, to solicit public comment. They won't be in the style of a public hearing, taking testimony. Rather, they are designed to answer questions and provide information.

CHAIR HUGGINS suggested it is important for legislators to know who will be conducting those meetings with their constituents.

COMMISSIONER GALVIN agreed to distribute that as soon as it is finalized. He said March 6 is the public comment deadline. Following that, there will be a decision by the two commissioners and a finding will be issued. If the decision is the intent to award a license, that will be provided to the legislature for final approval within 60 days.

CHAIR HUGGINS noted the slide says "Spring 2008." He asked what the target date is.

COMMISSIONER GALVIN answered that they've been working with the evaluation team. Things have been fluid. For example, on January 4 the applicant was identified, but there has been continual feedback from the evaluation team as to the scope of the work. Having the LNG evaluation adds a contingency. The

team has made it clear that it will take some time after the March 6 deadline to complete its evaluation, but how much time depends on the nature and complexity of the issues raised by the comments. It could be three weeks to three months. The comment period is still open, and issues may be raised that aren't anticipated. They cannot commit to a particular date now, but will strive to keep the legislature informed.

4:19:05 PM

CHAIR HUGGINS invited Senator Joe Thomas to the committee table, noting he'd been present throughout the meeting.

4:19:36 PM

COMMISSIONER GALVIN turned to a proposal by ConocoPhillips, showing a slide with the following points:

Invitation to Negotiate Upstream "Fiscal Framework"

- Does not include any requested upstream fiscal terms
- Agreement on upstream terms a pre-condition to any additional advancement of the project

Reflects, but does not meet, AGIA open-access requirements

- Few commitments, many contingencies

COMMISSIONER GALVIN elaborated. He described ConocoPhillips' alternative as an invitation to negotiate fiscal terms as a prerequisite to forward movement or any fieldwork. ConocoPhillips didn't provide any particular terms for what it is pursuing. In addition, the company reflected but didn't attempt to meet the AGIA "must haves" for open access in particular. The alternative identifies those and provides a variation, but there are few commitments and many contingencies. There isn't really a proposal with the same meaning as used in AGIA. Rather, it is an alternative.

CHAIR HUGGINS said he increasingly feels it is smart for pipeline companies to build pipelines; it's also smart to have involvement with those that have the gas, to ensure the gas is there. As for a fiscal framework, he recalled last October and November terms weren't negotiated; it was just done. He suggested that the legislature similarly decree the terms for gas, with consideration of its bearing on the gas pipeline.

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TOM IRWIN, Commissioner, Department of Natural Resources, responded that they envision the following: If TransCanada is

recommended and the legislature chooses to approve TransCanada as the applicant, they'll start to define the project, route, permitting, and steps to narrow the uncertainties. Then everyone will understand much more of the economics and what is or isn't needed upstream. He surmised everyone will become wiser through this process.

CHAIR HUGGINS said this isn't unlike the process for gas, looking at different parameters and courses of action as well as reducing uncertainty through the process. ConocoPhillips will get a chance along with every other player, as happened in October and November when everyone came forward and had a say.

COMMISSIONER GALVIN replied if there is a need to provide a fiscal framework with certainty, it would be done through a public discussion. The state would say what it is willing to put up, similar to the discussion last year in the context of AGIA and whether the 10-year certainty on taxes and royalties is the appropriate one. Gas taxes will be looked at when more is known about the economics of the pipeline and gas development. As for the ConocoPhillips alternative, the administration is saying if ConocoPhillips wants to begin that public dialogue, it needs to provide something publicly as a starting point. Just saying "have a fiscal framework" isn't sufficient.

CHAIR HUGGINS suggested no matter what company it is, the legislature can go through a process and set terms for a course of action that moves forward, rather than waiting for somebody else to do something.

COMMISSIONER GALVIN clarified that it hasn't yet been decided whether something needs to be changed.

[4:29:57 PM](#)

COMMISSIONER GALVIN showed the final slide, "AGIA Summary," with the following points:

- Get project built, quickly
  - Significant cost of delay
  - Need timelines, benchmarks
- Open North Slope gas basin
  - Mandatory Expansion
  - Rolled in tariffs
- Open and competitive process
  - Evaluation criteria
- Low tariffs
  - State Contribution

- Debt to equity ratio
- Gas for Alaska
  - Distance sensitive rates
- Jobs for Alaska
  - Training program
- Increase Predictability for Producers

COMMISSIONER GALVIN emphasized getting the project through the development phase; having a pipeline that works for Alaska and opens up the North Slope basin; having a process whereby the public can have confidence and that results in low tariffs and value back to the state and the leaseholders; having gas and jobs for Alaskans; and, ultimately, moving this forward and reducing uncertainties for the producers so they'll commit their gas to this line.

4:30:50 PM

SENATOR STEDMAN said this was a positive presentation, but the gas isn't assured with AGIA. This is a process, with the hope of getting gas to market sooner rather than later. He asked about risk the state may face if the AGIA license is issued and if TransCanada has a failed open season and then it goes through the Federal Energy Regulatory Commission (FERC) process for a certificate, with the state paying up to \$500 million, 90 percent, as well as the impact on the timeframe if the state must litigate and force a sale of gas to fill the line.

COMMISSIONER GALVIN replied nothing has changed from the representations a year ago. As it moves through the AGIA timeline, with the TransCanada application in the public realm, the implications remain the same. There is an open season. If it is unsuccessful, the question is what happens then. Under AGIA, with the commitments made by TransCanada, it will continue to move through the FERC permitting process. The state will identify barriers to getting gas commitments, with the full understanding of the economics and terms of that open season and a much better understanding of what current leaseholders have identified as barriers to making commitments. At that time, a decision can be made on the best course of action.

COMMISSIONER GALVIN surmised the administration wouldn't consider litigation as the first order of business. Other things could be looked at to attract those commitments. It will depend on information available then as to how much risk truly is associated with making those commitments, given the project economics. A collective risk assessment will be made regarding what the state's role should be. Also, as TransCanada said in

its application, a possible alternative to look at is whether the federal government should have a role as a "bridge shipper." The state will be in a much stronger position once there is a licensee with a project in the regulatory process that is identifying the economics.

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SENATOR STEDMAN noted the committee hadn't had the opportunity to review the TransCanada proposal yet. He highlighted getting a better understanding of the company's position. He said there seems to be some hesitation about going beyond a failed open season to ensure a successful one, which everyone wants.

COMMISSIONER GALVIN replied TransCanada's testimony last year crystallized that it wouldn't be interested in voluntarily going past an unsuccessful open season, which would require dedicating resources. That provides a healthy situation for the state, however, which wants TransCanada to be motivated to do everything possible to have a successful initial open season; the testimony indicated TransCanada wants to do that.

COMMISSIONER GALVIN added that TransCanada recognized it's in the state's interest to move the project forward. Competition associated with AGIA caused the company to accept that required level of commitment. So the state is better off if that occurs, and the state is in a better position now that people know a failed open season won't stop the project. He said the administration feels positive about where things are right now and the opportunities that will present themselves through the AGIA process.

SENATOR STEDMAN requested future analysis and conversation about mitigating potential risks that the state faces in issuing a license under AGIA, having a failed open season, going to the certificate, expending the \$500 million, and facing treble damages if the state wants to terminate it, all with the assumption that there may be a competing project heading towards a FERC certificate. He asked: At what point does the state get to the position of no return and thus is exposed to treble damages and \$500 million in sunk costs?

SENATOR STEDMAN recalled that a recent ConocoPhillips presentation indicated the company is very interested in starting the process to perhaps build its own gas pipeline outside of AGIA. He asked: At what point does the state have an exposure that would create an uncomfortable position for the state, and how does the state mitigate that and get out of it?

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COMMISSIONER GALVIN responded that he'd taken away a different impression from the ConocoPhillips discussion, that absent agreement on a fiscal framework up front, the company wouldn't move forward with an application to FERC. He indicated it is up to the state as to whether that possibility becomes a real risk.

COMMISSIONER GALVIN also said public discussion of the treble damages has been a bit misleading. People say it exposes the state to \$1.5 billion. But if one does the math on the TransCanada application, the most extreme case - if it goes to the open season and the state continues to contribute at the higher percentage rate - could result in perhaps \$640 million to get to the FERC certificate; the state would have contributed roughly \$450 million. Treble damages only apply to the TransCanada outlay. So it would only be three times that amount, not three times the whole \$500 million.

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COMMISSIONER IRWIN highlighted two big risks for the state. The first is trying to plan for the future without knowing the costs and value, including inherent value to Alaskans. The heart of AGIA is protecting the open basin and having an open pipeline, exploration, and expandability. But the state needs to know the numbers to make sound decisions; AGIA moves things clearly along that path. The second risk is a failed open season. If the state didn't drive past that, it would certainly invite a failed open season because the process would stop and it would be back to "How much do we have to give till we get a gasline?" Driving past an open season and having information will provide real knowledge, from which sound decisions will be made collectively.

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CHAIR HUGGINS recommended reviewing a January 23 memo from Mr. Mogel with respect to TransCanada that is on the website. It indicates some things the company won't do, such as engineering and that the state would own it.

COMMISSIONER IRWIN indicated the administration takes the evaluation seriously. For the completion, over 100 people worked on this in technical, commercial, and legal teams. "Without exception, we were told all 20 complied," he said, noting he hadn't yet read the memo but it was provided to some of the legal experts. He indicated the administration will communicate clearly with the legislature on it.

CHAIR HUGGINS requested that the legislature also be privy to any opinions from consultants or the attorney general. That way, everyone has the same information, whatever the source.

COMMISSIONER GALVIN expressed appreciation for that. He noted Mr. Mogel had provided two or three memos; the one cited goes to whether TransCanada complied with AGIA and whether its application was appropriately found to be complete. The process is in the evaluation phase now, so evaluation questions will arise; it's likely that most will wait until the state comes forward with an actual finding, which will be fully thought out.

COMMISSIONER GALVIN said the question of completeness has already been addressed, and he believes the related memo requires close attention, since it calls into question the decision already made. Noting he has reviewed the memo, Commissioner Galvin opined that it reflects a basic misunderstanding of the TransCanada application and the AGIA statute. A response document is nearly complete from the administration's team and will be made public within a day or two. The administration takes seriously the question of whether its decision on completeness was appropriate. He surmised that those who review these two documents will recognize that Mr. Mogel has misunderstood the law.

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COMMISSIONER IRWIN emphasized that the administration's three independent teams - technical, commercial, and legal - unequivocally say there was full completion. Expressing comfort with that decision, he indicated the administration would respond to any types of questions or comments on that.

SENATOR WIELECHOWSKI returned to concern about a failed open season. He said when he looks from a layperson's perspective, he sees that Drue Pearce says there is heavy demand for natural gas in the Lower 48; the federal government is behind this in an unprecedented way, to where an almost cabinet-level position has been established to expedite it; there is an \$18 billion loan guarantee; and financial analyses have been done and will be done in the future. Thus it seems everyone would have to be missing something for there to be a failed open season. He asked: Will you be looking at the likelihood of success in the open season when you perform this evaluation?

COMMISSIONER GALVIN affirmed that, saying it is a large part of the evaluation. Included in the RFA, and embedded in the AGIA criteria as well, was the question of whether TransCanada has

done what it can to create the greatest likelihood of success, including the initial open season. Some discussion involving things TransCanada mentioned in its application, associated with the loan guarantees being used to cover potential cost overruns, will also be looked at closely to understand the company's idea that it is an additional attractant to an open season because it creates more certainty for those making commitments.

COMMISSIONER GALVIN said the administration has expressed confidence all along that when this gets to the open season - assuming it is a proven economic project - the producers, as reasonable commercial players, will commit their gas. It can't be guaranteed, though, so the contingency is built in that if there is an unsuccessful open season, the project will be moved ahead because something may still need to be addressed.

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COMMISSIONER IRWIN added that last week he, Commissioner Galvin, and Marty Rutherford of DNR talked to various folks in Washington, D.C. They hear the huge demand for energy. Because of global warming, they believe Alaska has the right energy at the right time. Demand is rising. The price is rising. Consumers in the Lower 48 say the gas can't get there soon enough. There are even more encouraging indicators than when AGIA was passed a year ago. Highlighting the state's good position, he opined that the state is dealing with reasonable, highly qualified companies across the board that will protect their own value; as conditions change, they'll want to make real money. There will be real dollars to show what that value is.

SENATOR GREEN requested a definition of bridge shipper.

COMMISSIONER GALVIN deferred that, saying in the context of TransCanada's application he doesn't know what the company means by it. The administration is waiting for its experts to explain how it fits into the tariff rate. In general, though, the concept of a backstop shipper or an entity that comes in as an insurance policy can take a number of forms.

COMMISSIONER GALVIN gave examples. There might be a commitment to take the later years and take the risk of geologic discovery, with the commitments only being for "x" period of time and they'll cover the remaining period in order to get financing. Or they may say there is "x" amount of capacity already committed and so much unfilled capacity, and they might agree to make those commitments so that by the time the valve is turned

and gas is being shipped, if there isn't gas going through, they'll make payments in lieu of that.

COMMISSIONER GALVIN added he didn't know whether TransCanada had included it in the application, rather than just putting the concept forward. It wasn't a requirement or a condition for the application. TransCanada simply said if it gets to the point of an unsuccessful open season, this is something the state and TransCanada may want to talk to the federal government about. But TransCanada hasn't said it won't go to FERC unless it happens or that the future of the project depends on it.

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COMMISSIONER IRWIN mentioned talk about "conditional" and "bridge shipper." He explained that when the administration put out the RFA, there were clear "must haves." They tried to think outside the box with respect to what else might be necessary to solve other problems that arise. The RFA solicited proposals, and those that didn't unconditionally meet the qualifications weren't accepted. But also, as is common practice, bidders were encouraged to think outside the box as to what they might need or problems they saw. "We wanted to be wise about it," he said.

COMMISSIONER IRWIN noted TransCanada's materials say, on numerous pages, that the company accepts requirements unconditionally, but also recommend that if there is a particular problem, maybe the state and the company ought to do a particular thing. Those weren't conditions placed on the "must haves." The legal team is getting an answer to some of these issues, as Commissioner Galvin had mentioned. He surmised legislators would ask TransCanada these types of questions.

SENATOR GREEN recalled discussions that it is the risk taker that ensures there is a backstop and there are commitments. She said this is totally out of the box. In addition, she recalled conversations about a gas tax being in place before all this starts, and a recent conversation involving her, Chair Huggins, and TransCanada in which it was stated "no customers, no contract." She expressed concern that the state continues to say this can't be done until something is in place. She then requested a definition of the final point on the "AGIA Principles" slide: "Reduce uncertainties for Producers."

COMMISSIONER GALVIN replied that this references how to increase the likelihood of a successful open season. When the producers talk about the implications of making a gas commitment to this project, they reference things such as price commodity risk,

whether there will be completion of the project, cost overrun risk, the ultimate project cost, regulatory risk, and design risk. Right now, those are fairly significant. A project proponent or somebody asked to commit at an open season will ask how to better manage those risks. One identified aspect is the fiscal risk related to changes in the state system.

COMMISSIONER GALVIN noted the companies are willing to accept a certain amount of risk and have stated so. How much certainty they need with respect to the state fiscal picture is in context, juxtaposed with all other risks. The administration is suggesting this: If some other risks can be eliminated, then the amount the state is expected to provide through the fiscal system becomes less important. He added, "With AGIA, we drive through the design risk, the regulatory risk, a lot of the cost risks." He said the mechanism proposed by TransCanada is a way of reducing overall risk so there's less emphasis on the state fiscal aspect. That creates an opportunity to move the project ahead without the same demands that the state faces today.

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CHAIR HUGGINS asked about elements to reduce risk, timing, and the plan to do that. He recalled that ConocoPhillips conveyed willingness to index the commitment timeframe to the certainty timeframe, which was new to him. Also new was that the tax rate wasn't necessarily the main concern; rather, it was the overall regime, the system. He interpreted this as potentially major movement in somebody coming forward and putting something on the table as part of the discussion.

COMMISSIONER IRWIN agreed it was an interesting discussion from ConocoPhillips, but asked what "regime" means. Does it mean going back to arbitration versus using the judicial system? He said if the state could convince the companies that have gas to define what is needed, that is critical and would help greatly.

CHAIR HUGGINS gave his interpretation of a regime: The administration brings forth a bill for gas taxes and the legislature sets the taxes. He reiterated that he isn't interested in negotiating with the companies and isn't asking the administration to do so. Instead, he thinks a solution can be arrived at to move this forward for Alaska.

COMMISSIONER GALVIN said Chair Huggins had hit upon an interesting dynamic. ConocoPhillips had provided a different description of what they were asking for, clarifying that 1) they're looking at the length of time commensurate with the

length of the commitment and 2) the regime rather than the rate itself is the concern. If it would be a net-based tax that includes these deductions, the rate may change. He said he didn't know.

COMMISSIONER GALVIN added it's one thing for the state to propose a solution and another for the companies saying there are problems and barriers. There is one description of that in the stranded gas contract. Also, ExxonMobil last year said the package needs to be comprehensive, including taxes on oil, gas, property, corporate income, and so on, for 35-45 years. For the state to just decide doesn't solve the problem. If the intent is to find something that works collectively, that the public will buy into, the administration needs more information about what is needed to overcome this.

CHAIR HUGGINS proposed doing it with a bill, hearing testimony and so on. Then the legislature would take that information and create some degree of certainty. Voicing confidence that it can be done correctly, he again suggested proactively triggering this and doing it, rather than waiting for someone else.

COMMISSIONER IRWIN responded that for an AGIA applicant who wins, the administration wants to get the legislature its forward-looking information and intelligence information in that scenario. Being able to predict the cost and value will help the legislature determine what to go after.

CHAIR HUGGINS suggested the administration should already have the elements, since the administration would be providing assumptions on cost factors and so forth. He surmised the information would be available by spring of 2008 when the recommendations - or lack thereof - are brought forward.

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SENATOR STEDMAN returned to the loan guarantees, cost overruns, and issues relating to bridge shippers, saying those modify what is currently place. He suggested the necessity of better understanding Alberta's need for Alaskan gas. He voiced concern about the potential requirement for anyone - in this case, TransCanada - to access the loan guarantee if issues disqualify it. If a guarantee is required or needed, it would be a huge miscalculation if a license were issued without knowing the guarantee was obtainable and it later turned out it wasn't.

SENATOR STEDMAN asked the commissioners to help members sort through those issues. For instance, do the Alberta oil sands

need a third of Alaska's gas or all of it, or none? While a huge energy demand is ramping up there, the energy source hasn't been determined. He said there is a concern with the loan guarantees being for the continental U.S. if the gas doesn't get there in sufficient quantity to qualify.

COMMISSIONER GALVIN agreed that if the finding recommends issuing a license, the state will have to demonstrate that it has done the due diligence on the underpinnings of this project, including loan guarantees and related qualifications. Noting he and Commissioner Irwin had been to Washington, D.C., several times for discussions with the U.S. Department of Energy and those responsible for the existing loan guarantees, he highlighted making sure those folks are providing input so this doesn't end up outside the realm of what is available. That will be part of the administration's evaluation and finding, and ultimately it will go to the legislature for its decision.

SENATOR STEDMAN gave his understanding that it would require congressional action to modify the loan guarantees with respect to bridge shipping, cost overruns, and non-U.S. termination points. He asked how that would play into the analysis.

COMMISSIONER GALVIN suggested that first the question will be whether it requires such a statutory change. The context of each situation will need to be separated out. The bridge shipper issue is an alternative path, not part of the course that the state requires the companies to follow. Whether it is available immediately, is possible, or is impossible might not be relevant to whether to issue a license. The heart of the question is that a gas line has been proposed that goes to Alberta.

COMMISSIONER GALVIN recalled asking the U.S. Department of Energy if there might be an eligibility issue because the line connects to the Alberta Hub, since they'd heard any molecule consumed in Canada won't be eligible for the loan guarantee; the U.S. Department of Energy discounted that as an issue, however, since there is an integrated natural gas system. The gas that hits Alberta is said to be traded eight times a day. Whether one particular molecule of Alaskan gas ends up in Washington State, the Midwest, or in Canada, nobody could ever say. It will go to wherever the price is being paid under the contracts.

COMMISSIONER GALVIN said each of these issues is of concern, and the administration has an obligation to evaluate them. If it

requires an Act of Congress to make this work, that will have to be seriously considered in terms of the likelihood of success.

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SENATOR STEDMAN urged caution. He clarified that he wasn't referring to loss of a molecule of two, but 50 or 75 percent of the volume, a substantial redirection of gas into Alberta rather than the continental U.S. When he was in Alberta, it was implied that vast amounts of energy are needed to get to the oil sands and oil there, and there's interest in moving it to south Texas to the refineries. He suggested this could be worked on in the next few months. Cautioning against coming up with a scenario that doesn't actually exist, he reminded members that for the original PPT legislation there were many months spent in committee meetings and special sessions, and yet a fundamental error was made that had to be corrected later.

COMMISSIONER IRWIN opined that the line into Canada is a good situation because the administration predicts lines will be low there. There are gas volumes that can fill those lines. Yes, there is a need for energy relating to the tar sands. Along with what they'd heard from the U.S. Department of Energy, there is a desire to have the producers commit gas. Once it's in the line, the state doesn't want to tell them where they can or cannot drop it off. The producers are good at commercial deals, long-term sales, spot sales, and so on. The desire is to allow them to put their gas where it maximizes sales. So this ties into the discussion also.

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CHAIR HUGGINS, correcting a previous statement he'd made with respect to AGIA, voiced support for taking as much time as needed to get it right, since the stakes are important. He noted only one application had conformed to AGIA, and British Gas (BG) and MidAmerican hadn't come forward. He surmised if capable companies hadn't submitted conforming bids, they hadn't wanted to. He asked what surprises there'd been.

COMMISSIONER GALVIN noted when the session ended last year and the bill was signed, there was a blind solicitation sent out so companies knew the opportunity, even though it was felt to be a long shot. Players in the pipeline game are known: the Port Authority, MidAmerican, TransCanada, and the producers. The biggest surprise was the amount of interest from entities that work with BG. Whereas last year BG testified that it didn't intend to participate, BG spent a lot of money putting together something but then ultimately decided not to apply.

COMMISSIONER GALVIN said another surprise was receiving the Sinopec-related materials from Little Susitna Construction Company, clearly put together by an outfit that knew what it was doing. He highlighted a cultural difference in how business is done, noting a lot of negotiating room was left and the company perhaps didn't know the state would hold to the fact that it was final and unconditional.

COMMISSIONER GALVIN recalled speculation last year about whether AGIA was written for MidAmerican; he said the administration clarified that it wasn't written for any company, which was borne out by the process. The hope was for a lot of jockeying for position and public posturing; he surmised the companies also acted behind the scenes.

COMMISSIONER GALVIN told members that although there is a perception that this was a noncompetitive process because TransCanada has an application entering the evaluation phase, nothing could be further from the truth. Although reluctant to make the required commitments under AGIA, TransCanada nonetheless chose to take on significant commitments to the state. He opined that the primary driver was competition.

COMMISSIONER GALVIN said competition would have changed companies' behavior until November 30, when they had to give their best pitch. After that, they were locked in and the state just had to decide. Competition includes not just those companies that submitted an application, but also those expected to. He surmised TransCanada acted as it did because of the belief that others would submit applications, although some decided at the last minute not to. It benefited the state. Getting companies to meet the state's demands because of competition is what AGIA is about. He indicated the administration has said all it needs is one good application. TransCanada's meets all the demands.

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CHAIR HUGGINS referred to letters to the administration from MidAmerican and BG. He asked whether the administration had talked to MidAmerican about the following paragraph:

Given the extensive nature of the ongoing criminal investigations, recent related performance issues in Alaska and elsewhere by one of our major producers, ongoing litigation regarding natural gas leases with producers, and the current projected complications and

heavy industrial construction industry, we would respectfully suggest that an alternative way forward to considered.

COMMISSIONER GALVIN replied they'd asked but hadn't received an answer they fully understood; he suggested asking Mr. Sokol. He surmised this referenced the fact that MidAmerican wasn't participating. He noted that to complete the paragraph thought, it said an alternative path would be partnering with ...

CHAIR HUGGINS finished the idea, noting it is the U.S. government with a proven, nonconflicted project development partner, whoever that is.

COMMISSIONER GALVIN said he hadn't understood that reference either, although he'd asked.

COMMISSIONER IRWIN added that the aforementioned letter is intriguing. It isn't known what went on behind the scenes. The surprise was that the company clearly and publicly said it would participate but then something changed that. Nor does the administration know yet whether it has the right applicant, because it still needs to do the evaluation. But it is an incredibly good applicant to evaluate.

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CHAIR HUGGINS asked when the decision to evaluate LNG was made.

COMMISSIONER GALVIN replied the final decision was made in the last 24 hours, after deciding what to do with the Port Authority application.

COMMISSIONER IRWIN added that it took a long time because it was such a critical decision.

CHAIR HUGGINS commended the decision, suggesting it should have been done months earlier and as part of the approach for AGIA. He noted that business people frequently ask whether there are substantive talks with ConocoPhillips and whether the governor is part of it.

COMMISSIONER GALVIN answered that there are continual discussions between the administration and ConocoPhillips. The public manifestation is the proposal and response. The response to the governor is indicative of the types of discussions in terms of the framework for the best way to move forward to reach the mutual goals. Currently, there is a different viewpoint as

to how to move forward, but it doesn't diminish that there are significant mutual goals. The discussion needs to continue to ensure an opportunity isn't missed when that presents itself.

CHAIR HUGGINS asked who the liaison is between the administration's gas team and various players.

COMMISSIONER GALVIN replied Marty Rutherford of DNR is the lead on the gasline project.

CHAIR HUGGINS asked whether she is the one talking to them.

COMMISSIONER IRWIN clarified that there's a difference between talking and negotiating. He didn't know of an instance when a discussion was refused by either party. They continue to hear "certainty" and continue to ask what it means, but there hasn't been clarity on either side, and they want to understand the ramifications. Both sides have been courteous and willing to talk to each other.

CHAIR HUGGINS asked whom they are dealing with at ConocoPhillips.

COMMISSIONER GALVIN noted the appropriate person to communicate something depends on the issue. He mentioned Governor Palin along with Jim Mulva of ConocoPhillips, and he alluded to DNR's Marty Rutherford along with Brian Wenzel and Wendy King of ConocoPhillips. Within DOR, he said Kevin Mitchell, Jon Iversen, and Marcia Davis go back and forth over various things. It happens continually and in a variety of ways at each level.

CHAIR HUGGINS asked if they are communicating with the other producers.

COMMISSIONER GALVIN answered that in the regular course of business there is communication all the time. With regard to the gas pipeline, the administration is going forward with AGIA. ConocoPhillips has suggested talking about an alternative, so that is being discussed. But the other companies haven't requested much regarding gasline issues, so there has been nothing to respond about and no reason to reach out to them.

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COMMISSIONER IRWIN added that despite what is sometimes heard, it's not true that they can't get along. He mentioned work done by ConocoPhillips, Marathon, ENSTAR, and the state with respect

to recommendations on the LNG facility, saying there was tremendous progress by all parties. Opportunities can be had.

SENATOR GREEN asked if conversations were pleasant between the administration and the producers.

COMMISSIONER IRWIN replied in every one he'd been in, there was courtesy on both sides.

SENATOR GREEN suggested that should extend to letter writing in the future.

SENATOR McGUIRE requested modeling on how other jurisdictions treat gas taxes and provide incentives through a tax structure. She surmised the administration is waiting to see if there is a licensee, but agreed with Chair Huggins that the ultimate issue of a gas tax needs to be addressed. She reminded members that during the Murkowski Administration the issues became so intertwined that progress couldn't be made on either end.

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COMMISSIONER GALVIN said they clearly recognize that. Their effort has been to recognize the difference between upstream and midstream issues and to keep those distinct, though recognizing the interplay. With respect to Senator McGuire's first request, he agreed to provide what information the administration has. He referred to testimony by Marcia Davis.

COMMISSIONER GALVIN, in response to Senator Stedman, clarified that the administration's communication with the companies isn't through the media. Communications take place in meetings and phone conversations, and one can see the types of discussions by looking at letters between the parties.

SENATOR STEDMAN noted the governor's rejection letter to ConocoPhillips was addressed to James Mulva, the company's chief executive officer (CEO) in Houston, Texas, but the response letter came from Jim Bowles, president of ConocoPhillips Alaska.

COMMISSIONER GALVIN said the ConocoPhillips alternative was delivered to Governor Palin in a meeting between her and James Mulva in the form of a letter from Mr. Mulva to her. So her response was back to him. ConocoPhillips' decision to send a letter from Mr. Bowles was its own decision.

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CHAIR HUGGINS wrapped up by saying communication is a mutual responsibility. Indicating Sharon Long is this committee's liaison for the gas pipeline, he said the committee would like a corresponding liaison from the administration. He also requested that the administration push information to the committee so there is an open flow to the legislature, as he indicated would similarly occur with information from the legislative consultants to the administration.

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SENATOR GREEN asked if any provision encourages a consortium or partnership from this point forward or a way to start that conversation or push it along; she said it didn't require an immediate answer. She surmised in the end there wouldn't be just one company.

COMMISSIONER GALVIN concurred, noting provisions in AGIA specifically allow the addition of more parties. He expressed encouragement and said it reflects well on TransCanada that its application indicated it was leaving room for additional equity owners. It is an opportunity for the administration to look for opportunities to "move people together."

SENATOR GREEN asked: Is it appropriate for the state to be in that role, or is the desire to let the attraction work on its own, for instance?

COMMISSIONER IRWIN replied he believes it will happen. There are good companies. But right now, the administration needs to be careful to not compromise its position during the evaluation.

SENATOR GREEN indicated TransCanada had made it clear that there is a wall and no communication in that respect. She noted people ask why everyone can't get along and get together.

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COMMISSIONER IRWIN, in response to Chair Huggins, said the administration will be available to Chambers of Commerce, Rotary members, and others who want to hear these presentations and ask questions. This is in addition to the scheduled town meetings.

CHAIR HUGGINS thanked the commissioners.

There being no further business to come before the committee, Chair Huggins adjourned the Senate Resources Standing Committee meeting at [5:48:25 PM](#).